

# HOUSE . . . . . No. 4368

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 31, 2012.

The committee on Ways and Means, to whom was referred the Senate Bill establishing a board of registration in naturopathy (Senate, No. 2377), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4368.

For the committee,

BRIAN S. DEMPSEY.

# HOUSE . . . . . No. 4368

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve  
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By striking out all after the enacting clause and inserting in place thereof the following:—

1 SECTION 1. Chapter 13 of the General Laws is hereby amended by adding the following  
2 section:-

3 Section 109. (a) There shall be within the division of professional licensure a board of  
4 registration in naturopathy which shall consist of the commissioner of public health or a designee  
5 and 8 persons to be appointed by the governor, 5 of whom shall be naturopathic doctors with at  
6 least 5 years of experience in the practice of naturopathic health care and who shall be licensed  
7 under section 267 or 269 of chapter 112, 1 of whom shall be a physician licensed to practice  
8 medicine under section 2 of chapter 112 with experience working with naturopathic doctors and  
9 1 of whom shall be a clinical pharmacologist. The appointed members shall serve for terms of 3  
10 years. Upon the expiration of a term of office, a member shall continue to serve until a successor  
11 has been appointed and qualified. No member shall serve for more than 2 consecutive terms;  
12 provided, however, that a person who is chosen to fill a vacancy in an unexpired term of a prior  
13 board member may serve for 2 consecutive terms in addition to the remainder of that unexpired  
14 term. A member may be removed by the governor for neglect of duty, misconduct, malfeasance

or misfeasance in the office after a written notice of the charges against the member and sufficient opportunity to be heard thereon.

(b) The board shall annually elect from its membership a chair and a secretary who shall serve until successors have been elected and qualified. The board shall meet at least 4 times annually and may hold additional meetings at the call of the chair or upon the request of 4 members. A quorum for the conduct of official business shall be a majority of those appointed. Board members shall serve without compensation, but shall be reimbursed for actual and reasonable expenses incurred in the performance of board member duties. The members shall be public employees for the purposes of chapter 258 for all acts or omissions within the scope of their duties as board members.

SECTION 2. Chapter 112 of the General Laws is hereby amended by adding the following 9 sections:

Section 264. For the purposes of this section and sections 265 to 272, inclusive, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

“Approved naturopathic medical college”, a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy that is approved by the board and which is accredited by an accrediting agency recognized by the United States Department of Education or such other college or program as may be approved by the board; provided, however, that the naturopathic doctoral program shall be further accredited by the Council on Naturopathic Medical Education or its successor or otherwise approved by the board.

“Board”, the board of registration in naturopathy established in section 109 of chapter 13.

‘Homeopathic preparations’, medicines prepared according to the Homeopathic Pharmacopoeia of the United States.

“Naturopathic doctor”, a person who is licensed by the board to practice naturopathic health care under this chapter.

“Naturopathic health care”, a system of health care practices for the prevention, evaluation and treatment of illnesses, injuries and conditions of the human body through the use of education, nutrition, natural medicines and therapies and other modalities which are designed to support, stimulate or supplement the human body's own natural self-healing processes.

“Naturopathic manipulative therapy”, the manually-administered mechanical treatment of body structures or tissues in accordance with naturopathic principles for the purpose of restoring the normal physiological function of the human body.

“Naturopathic physical medicine”, the therapeutic use of the physical agents of air, water, heat, cold, sound, light and the physical modalities of electrotherapy, diathermy, ultraviolet light, hydrotherapy, naturopathic manipulative therapy and therapeutic exercise.

“Person”, an individual; provided, however, that ‘person’ shall not include a partnership, corporation, association or business organization.

Section 265. (a) The practice of naturopathic health care shall include, but not be limited to:

(1) the prevention and treatment of human illness, injury or disease through education, dietary or nutritional advice and the promotion of healthy ways of living;

(2) the use of non-invasive physical examinations and the ordering of clinical and laboratory procedures from licensed clinics or laboratories to evaluate injuries, illnesses and conditions in the human body;

(3) dispensing, administering, ordering and prescribing natural medicines of mineral, animal or botanical origin, including food products or extracts, vitamins, minerals, enzymes, digestive aids, natural hormones, plant substances, homeopathic preparations, natural antibiotics and topical medicines and nonprescription drugs, therapeutic devices and barrier contraceptives to prevent or treat illnesses, injuries and conditions of the human body;

(4) the use of manual mechanical manipulation of body structures or tissues in accordance with naturopathic principles;

(5) the use of naturopathic physical medicine to maintain or restore normal physiological functioning of the human body; and

(6) mandatory tracking and documentation of the immunization status of a patient under 18 years of age and the required referral of such patient to a primary care or collaborative care physician where evidence exists that the individual has not been immunized.

(b) The practice of naturopathic health care shall not include:

(1) performing surgery or invasive procedures or examinations, abortions or the use of radiation, radioactive substances or local, general or spinal anesthesia;

(2) prescribing, dispensing or administering a drug classified as a controlled substance or prescription drug under chapter 94C;

(3) the practice of acupuncture and Traditional Chinese medicine; or

(4) the practice of emergency medicine, except as a person rendering gratuitous services in an emergency or for the care of minor injuries.

(c) Nothing in sections 264 to 272, inclusive, shall prohibit or restrict:

(1) a person who is licensed, certified or registered to practice a profession or occupation under any other law from engaging in activities which are within the lawful scope of practice for the profession or occupation for which that person is licensed;

(2) the practice of naturopathic health care by a person employed by the United States government if that person engages in such practice in the performance of the employee's duties;

(3) the practice of naturopathic health care by students enrolled in an approved naturopathic medical college; provided, however, that the performance of all such services shall be under a course of instruction or assignments from and under the supervision of an instructor who is licensed as a naturopathic doctor under this chapter or a licensed professional in the field in which that professional is providing instruction;

(4) a person from self-treatment or treatment of an immediate family member based on religious or health beliefs;

(5) a person who sells vitamins and herbs from providing information about those products; or

(6) a person or practitioner who is not licensed as a naturopathic doctor under this chapter from recommending ayurvedic medicine, herbal remedies, nutritional advice, homeopathy or any other therapy that is within the scope of practice of naturopathic health care;

provided, however, that such person or practitioner shall not represent or assume the character or appearance of a person practicing naturopathic health care in the commonwealth or otherwise use any name, title or other designation which indicates or implies that such person is licensed to practice naturopathic health care.

(d) Licensed naturopathic doctors shall have the same authority and responsibilities as licensed physicians regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, recording of vital statistics, health and physical examinations and local boards of health, except that the authority of licensed naturopathic doctors regarding such matters shall be limited to the scope of practice authorized by this chapter. Naturopathic doctors shall be mandated reporters as required of physicians and nurses.

Section 266. (a) The board shall have the following powers and duties:

(1) to adopt rules and regulation governing the licensing of naturopathic doctors and the practice of naturopathic health care to promote the health, welfare and safety of the residents of the commonwealth including, but not limited to:

(i) regulations governing the activities of naturopathic assistants;

(ii) requirements for specialty practice by licensed naturopathic doctors;

and

(iii) continuing education requirements for the renewal of licenses

including, but not limited to, the number of hours required, the subjects required and board approval of continuing education programs or lectures;

(2) to receive, review and approve or disapprove applications for licensing and to issue licenses;

(3) to establish administrative procedures for processing applications and renewals;

(4) to provide a uniform, proctored, psychometrically-sound examination for use in licensing naturopathic doctors, which shall adequately test the diagnostic and therapeutic skill of license applicants; provided, however, that the board may adopt a standardized national examination, including the Naturopathic Physicians Licensing Examination or its equivalent; provided further, nothing in this section shall prohibit the board from administering a licensing examination developed in cooperation with other state licensing authorities; and

(5) to establish a code of ethics for naturopathic doctors;

(6) to establish and maintain records of its actions and proceedings under the public records laws;

(7) to perform other functions and duties as may be necessary to carry out sections 264 to 272, inclusive.

(b) The board shall have the authority to investigate all complaints relating to the proper practice of naturopathy, including any violations of sections 264 to 272, inclusive or any rule or regulation of the board. Such complaints may be brought by any person or the board.

(c) The board shall be under the supervision of the division of professional licensure and it shall have the powers and duties provided in sections 61 to 65E, inclusive. For the purposes of this section and sections 61 to 65E, inclusive, conduct which places into question the license



holder's competence to practice naturopathy shall include, but not be limited to: (i) the commission of fraud or misrepresentation in obtaining a license; (ii) criminal conduct which the board determines to be of such a nature as to render the person unfit to practice naturopathy, as evidenced by criminal proceedings resulting in a conviction, a guilty plea, a plea of nolo contendere or an admission of sufficient facts; (iii) violation of a rule or regulation of the board; (iv) failure to cooperate with the board or its agents in an inspection or investigation; (v) failure to fulfill any continuing education requirements set out by the board; (vi) aiding or abetting an unlicensed person to practice naturopathy; or (vii) negligence in the course of professional practice.

(d) The board may issue an order to a licensee directing the licensee to cease and desist from unethical or unprofessional conduct if the board finds, after notice and the opportunity for a hearing, that the licensee has engaged in such conduct.

(e) Nothing in this section shall limit the board's authority to impose sanctions that are considered reasonable and appropriate by the board. Any person aggrieved by any disciplinary action taken by the board under this section or for violation of any other law or rule or regulations may, under section 64, file a petition for judicial review.

Section 267. (a) An application for original licensure as a naturopathic doctor shall be made on forms approved by the board. Such application shall be sworn and shall be accompanied by payment of the fee prescribed by the secretary of administration and finance under section 3B of chapter 7. The board shall issue a license as a naturopathic doctor to an applicant upon receipt of satisfactory proof that the applicant:

(i) is at least 18 years old and of good moral character; and

(ii) possesses a baccalaureate degree from an accredited educational institution or its equivalent, as determined by the board.

(b) An applicant for a license under this section shall have graduated from and hold a doctor of naturopathic medicine or doctor of naturopathy degree from an approved naturopathic medical college; provided, however, that an applicant shall have satisfactorily completed a minimum of 1,200 hours of board-approved clinical training prior to graduation from such college. Such clinical training may have been completed in either an inpatient or outpatient setting and may include components of conventional medicine as well as naturopathic health care.

(c) The board may approve an applicant who attended and graduated from a 4-year naturopathic doctoral program which is located in a country or territory outside the United States if, in the opinion of the board, the training and education provided by that naturopathic doctoral program is substantially equivalent to that provided by a naturopathic doctoral program which meets the requirements of subsection (b).

Section 268. The board, in consultation with the division of professional licensure, shall determine the renewal cycle and renewal period for naturopathic licenses. A naturopathic doctor licensed under this chapter shall apply to the board for renewal of a license on or before the expiration date, as determined by the board, unless earlier revoked, suspended or cancelled as a result of a disciplinary proceeding instituted under section 271. As a condition for renewal under this section, the board may require a naturopathic doctor to provide the board with satisfactory proof that the naturopathic doctor has successfully completed the required number of hours of continuing education for naturopathic doctors in courses or programs approved by the board or

has complied with other requirements or equivalent requirements approved by the board. Upon satisfactory compliance with the licensing requirements for naturopathic doctors and successful completion of the continuing education requirements, the board shall issue a renewal license. The board may provide for the late renewal of a license that has lapsed and may require payment of a late fee.

Section 269. The board may grant license reciprocity to registered, certified or licensed naturopathic doctors from other jurisdictions; provided, that the requirements for registration, certification or licensing in the other jurisdictions are, in the opinion of the board, substantially equivalent to the requirements in section 267. The board shall promulgate such rules and regulations as may be necessary to implement this section.

Section 270. Each licensed naturopathic doctor shall advise the board, in writing, of the address of that naturopathic doctor's principal place of business and all other addresses at which that doctor is currently engaged in practice. The naturopathic doctor shall immediately provide written notice to the board of any change in the address of a place of business at which the doctor practices. The naturopathic doctor shall also advise the board, in writing, of that doctor's current residential address and of any change of such address.

Section 271. (a) No person shall represent or assume the character or appearance of a licensed naturopathic doctor in the commonwealth unless that person is licensed under this chapter. A person who is not licensed under this chapter shall not use any of the following titles: naturopathic physician, naturopathic practitioner, natural doctor, naturopathic doctor, doctor of naturopathy, doctor of natural medicine, doctor of naturopathic medicine, NMD, doctor of nutritional medicine, N.D, naturopathic medicine, naturopath or any other term that indicates or

implies that the person is licensed to practice any form of naturopathic health care in the commonwealth.

(b) A licensed naturopathic doctor shall not use the term physician nor assume the character or appearance of a primary care provider..

(c) A person acting or purporting to act as a naturopathic doctor without first obtaining a license under this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 1 year in a house of correction or both. Upon conviction of a second or subsequent offense, such person shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than 2 years in a house of correction or both

(d) A person who receives money or an equivalent thing of value as a fee, commission, compensation or profit by or as the consequence of a violation of sections 265 to 271, inclusive, shall, in addition to any other penalty, be liable for a fine of not less than the sum of the money received and not more than 3 times the sum received, as determined by the board.

(e) There shall be no action brought by a person for recovery of compensation, nor actual recovery of compensation, for services rendered by that person as a licensed naturopathic practitioner unless such person held a current valid license under this chapter at the time the act or service was provided.

Section 272. All licensing and application fees and civil administrative penalties collected under sections 264 to 272, inclusive, shall be deposited into the trust fund established in section 35V of chapter 10.

SECTION 3.

225           An applicant who graduated before 1987 and earned a doctor of naturopathic medicine or  
226   doctor of naturopathy degree from a 4-year, in-residence naturopathic college or program that  
227   had, at the time of the applicant's graduation, a license, authority or other approval from its state  
228   or province to grant such degree may apply to the board of registration in naturopathy for  
229   licensure, provided that the person satisfactorily demonstrates an ability to practice naturopathic  
230   medicine in the commonwealth as determined by the board.

231   SECTION 4. The terms of the initial appointed members of the board of registration in  
232   naturopathy under section 109 of chapter 13 of the General Laws shall be as follows: 2 shall  
233   serve for a term of 1 year; 2 shall serve for terms of 2 years and the remaining 3 shall serve for  
234   terms of 3 years. The 5 members required to be naturopathic doctors shall be persons with 5  
235   years of experience in the practice of naturopathic health care who would be eligible for  
236   licensure in the commonwealth if said section 109 of said chapter 13 were in effect prior to the  
237   effective date of this act

238   SECTION 5. The punishment provisions of section 271 of chapter 112 of the General Laws  
239   shall take effect not later than 6 months after the board of registration in naturopathy first issues  
240   licenses under said chapter 112.

241   SECTION 6. This act shall take effect in 180 days.